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8 Attorneys for Defendants
9 SAFER TECHNOLOGIES, INC.,
10 CERMA TECHNOLOGY, INC.,
11 GEORGE ACKERSON, MARY STRANAHAN,
12 NICHOLAS STREIT and EDWARD HALBACH

13 UNITED STATES DISTRICT COURT
14 NORTHERN DISTRICT OF CALIFORNIA
15 SAN JOSE DIVISION

16 MOTOR WORKS LLC,

17 Plaintiff,

18 vs.

19 SAFER TECHNOLOGIES, INC., CERMA
20 TECHNOLOGY, INC., GEORGE
21 ACKERMAN, MARY STRANAHAN,
22 NICHOLAS STREIT, TIM STREIT and
23 EDWARD HALBACH,

24 Defendants.

Case No.: 08-CV-03608 JW

**DECLARATION OF ALVAH C. BITTNER
IN SUPPORT OF DEFENDANTS' REPLY
BRIEF IN SUPPORT OF MOTION FOR
LEAVE TO FILE COUNTERCLAIMS**

Date: March 8, 2010

Time: 9:00 a.m.

Courtroom: 8, 4th Floor

Judge: Hon. James Ware

25 I, Alvah C. Bittner, declare:

26 1. I am a resident of the State of Washington and Principal with Bittner &
27 Associates a Research, Development, Testing and Evaluation (RDT&E) Consultancy located in
28 Kent, WA. Bittner & Associates has been in business since my retirement as a Research Team
Leader, with the Transportation Research Group of the Battelle Seattle Research Center on 1
April 2005. At the time of my retirement, I was a Full-Professor affiliated with the Department
of Environmental Heath at the University of Washington. I have an extensive background
serving as a consultant concerned with the design and evaluation of research-studies at all stages
of RDT&E with a particular focus on assurance of the validity of claims that may be derived

1 from research studies. This is broadly reflected in my more than 400 publications (>100 journal
2 and book chapters, and edited volumes as well as >300 other technical and proceedings reports).

3 2. I have the level of expertise regarding the evaluation of research and research
4 claims that qualifies me as an expert witness in the aforementioned areas.

5 3. Circa mid-February 2008, I was contacted by George Ackerson, who requested a
6 "science background check" with regard, to Mr. John Murray and his purported patent filing
7 relative to a polyether modified polysiloxane.

8 4. I subsequently found and evaluated a patent application, filed by Mr. John Murray
9 (ca.2004) as well as decades earlier prior-art patents addressing the addition of polysiloxanes to
10 lube oils/greases. These altogether led me initially to conclude that the patent application was
11 "highly suspect in several regards, if not possibly fraudulent."

12 5. I based my findings on several important elements to any patent that in this case
13 presented marked inconsistencies. In this regard, one of the foremost requirements is to address
14 what is known as "prior art." In this case there were at least two decades of relevant prior art
15 regarding polysiloxanes ignored in the pending patent. Mr. Murray claims to have invented
16 specific compound that he also states as being similar to a another company's formulation: BYK
17 333, manufactured by BYK Chemmie, of Germany.

18 6. Relative to suspicions re: Mr. John Murray's application, I consulted with an
19 associate of mine who is a PhD Nuclear Chemist, regarding a definitive comparison of Mr.
20 Murray's product and BYK 333. Our consensus was that two sets of samples should be obtained
21 and compared in such manner as to either confirm, or refute our developing conjecture that this
22 patent application was possibly fraudulent; i.e., Mr John Murray's purported patent processes
23 were in fact not being conducted as claimed as to a) a product similar to but unique from BYK
24 333, and b) then structural alterations by a process of heating, and/or sonic mixing, and/or
25 filtering. Findings of substantial differences it should be noted would both tend to counter our
26 growing conjecture, and lend support to a claim of substantive differences between BYK 333 and
27 the product offered by Mr. John Murray.
28

8. Regardless of this level of due diligence on the part of Safer Technologies, I strongly predicted that the patent application, with its something more than two score claims, was such an “unsupported mishmash” that it would never be awarded. I was informed ca. March 12 2008 that my prediction was confirmed when this same application was summarily denied as to every claim.

10. I am over eighteen years of age and have the capacity to perceive and recollect. If called upon to testify, I am competent to testify to the foregoing matters, which are within my personal knowledge.

Alvah C. Bittner

GENERAL ORDER 45 CERTIFICATION

I, James M. Hanavan, hereby attest pursuant to N.D. Cal. General Order No. 45 that the concurrence to the filing of this document has been obtained from each signatory hereto.

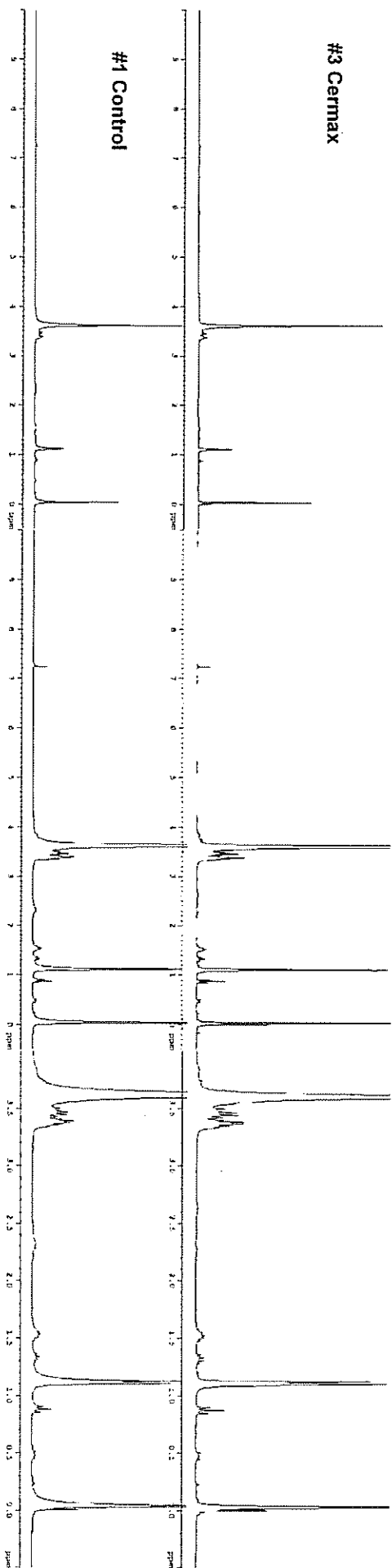
Dated: February 22, 2010

CRAIGIE, McCARTHY & CLOW

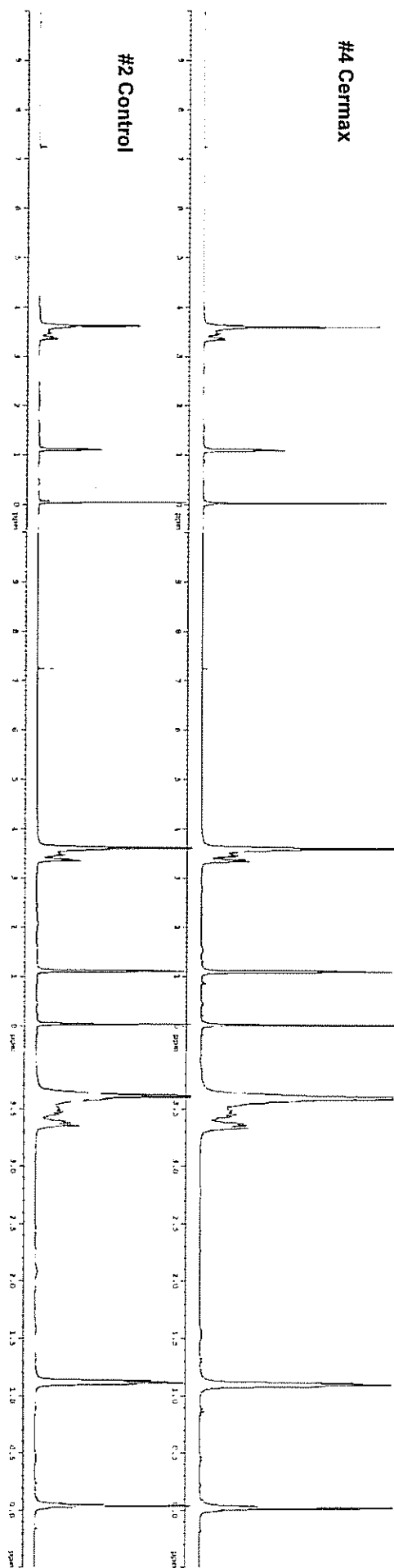
/s/ James M. Hanavan

By: James M. Hanavan
Attorneys for Defendants
SAFER TECHNOLOGIES, INC.,
CERMA TECHNOLOGY, INC.,
GEORGE ACKERSON,
MARY STRANAHAN,
NICHOLAS STREIT and
EDWARD HALBACH

Exhibit “A”



Scott Busse PhD
Montana State University
Bozeman, MT
NMR Test (Nuclear Magnetic Resonance)



Nestor Soriano PhD
Montana State University Northern, Havre MT
College of Technical Sciences
FTIR Test (Fourier Transform Infrared) Spectroscopy